

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
TUESDAY, JANUARY 16, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting (arrived 7:45 p.m.), and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Planner Patula, Parks, Recreation and Culture Director McGleish, Public Works, Parks Maintenance and Engineering (PWPME) Services Director Mumpower, Facilities Director Geiling, Grants Administrator Boyle, Youth Services Director Smith, GIS Planner Eby, Custodian/Maintenance Worker Mason, Team of the Quarter Members (Sarah Messier, Nansie Wilde, Dorothy Winder, Sharon DeVore, Karen Eader, Corrine Emmanuel, Judy Hockey, Crystal Carr, Ann Choate, Cindy Hines, Bobby Johnson, Mark Kober, Laura Sarno, Mark Scafide, Rudy Wagner), City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for the consolidated joint public hearing: Bauer, Levy and Kaufman.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by John Small, Gaithersburg resident.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held January 2, 2007, be approved with revisions from Alster.

Vote: 4-0

IV. CONSENT ITEM

Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract for Consulting Services on a City of Gaithersburg Bikeway Plan

This resolution authorized the City Manager to negotiate and execute a contract for the above services to Toole Design Group, 6525 Belcrest Road, Suite 400, Hyattsville, Maryland 20782, in the amount of Twenty-Six Thousand Dollars (\$26,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that Consent Agenda (Resolution No. R-7-07), be approved.

Vote: 4-0

V. PRESENTATIONS**1. 15th Annual Dr. Martin Luther King, Jr. Readings and Certificates of Recognition**

Over 200 area Gaithersburg students participated in this years contest. The students work were judged and chosen by members of the City's Multicultural Affairs Committee. The 1st place winners attended the County Martin Luther King Celebration at The Music Center at Strathmore. Mayor Katz presented certificates of recognition and William Schlossenberg, *Gazette* Newspapers presented awards to the following winners: William Eom, 5th grader at Fields Road Elementary School, Lily Tilahun, 11th grader at Northwest High School and Jamia Young, 5th grader at Washington Grove Elementary School

2. 2nd Quarter Employee Recognition Awards

Mayor Katz and City Manager Humpton presented employee recognition awards to the following second quarter (September 1, 2006 – November 30, 2006) winners: **GIS Planner Kirk Eby**, has consistently performed at a high level of quality workmanship and gone above and beyond the expectations of those he has worked with on many projects. His maps and mapping system can be seen on the City's website and at City meetings; **Tommy Mason, Casey Community Center – Custodian/Maintenance Worker**, for almost 16 years, has continuously performed exceptional in his job. He has stayed up through many nights and long weekends when the center had major roof leaks, major snow storms or major electrical problems. He has also been very astute in catching electrical and plumbing concerns before there were fire or water damage to the center; and the team of the quarter (**25th Annual Celebrate Gaithersburg Planning Committee**) consisting of Sarah Messier, Nansie Wilde, Dorthy Winder, Sharon DeVore, Karen Eader, Corrine Emmanuel, Judy Hockey, Crystal Carr, Ann Choate, Cindy Hines, Bobby Johnson, Mark Kober, Laura Sarno, Mark Scafide and Rudy Wagner were nominated for their dedication, hard work, and excellent planning of the 2006 Festival. The Committee worked long hours to provide the community with a multifaceted festival that would attract scores of citizens and visitors to Gaithersburg and present new and different activities for patrons of all ages. The planning of Celebrate Gaithersburg involved developing detailed plans (traffic and security management, festival layouts, applications, logistics, work orders, and media strategies). Additionally, plans for INS Ceremony, Mayor and Council Welcome Ceremony, and Volunteer Reception were developed.

3. Proclamation

Mayor issued a proclamation designating January 15 - 20, 2007, as "*Gaithersburg/Germantown Jaycee Week*" in the City of Gaithersburg. The Jaycees is a volunteer organization comprised of professional men and women interested in improving their career, networking, and/or gaining new skills and experiences. The Gaithersburg/Germantown Jaycees have assisted the Department of Parks, Recreation and Culture through numerous means in the last seven years, providing volunteer support to several sponsored City events. Furthermore, the organization has sponsored an annual circus that comes to town whereas the majority of its proceeds benefit the Dolores Swoyer Summer In the City Camp Scholarship Fund. To date, \$10,150 has been raised for this purpose. The Jaycees were named the Organization of the Year for the City of Gaithersburg for 2004. The proclamation was accepted by Ron Alger, President, Gaithersburg/Germantown Jaycees.

VI. PUBLIC APPEARANCES

1. *Mike Stumborg, 15 Walker Avenue*, expressed support for alcohol sales restrictions in various areas of the City. He submitted a map showing suggested areas of improvement for the restrictions.

2. *Steve Shrimen, Gaithersburg resident*, mentioned that the County will be announcing the location for a proposed day laborer center near the intersection of Shady Grove Road and Route 355. He expressed concern that no public input was sought by the County. He asked that the Mayor and City Council not meet with County Executive Ike Leggett due to their practice of conducting closed door meetings.
3. *Beth (inaudible), Saybrooke community*, asked for increase police patrol in the community to make their presence known. She expressed concern with boarding homes in the community impacting longtime homeowners, the rise in crime, and the problems associated with having a day laborer center in the area.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Vice President Alster

1. Congratulated the winners and students who participated in the 15th Annual Dr. Martin Luther King, Jr. Literary Arts Contest. He further offered congrats to the City's employees and team of the 2nd quarter award recipients.
2. Reported that Jim Handley, Channel 4 News did a piece in December 2006 "12 Nights of Christmas," where he identified individuals and organizations that were helping others. The Wells/Robertson House and its residents were recognized for their outreach and successes.
3. Announced the Mayor and City Council will conduct a work session on Monday, January 29, 2007, to solicit input as part of the hiring process of the City's new chief of police. He reported that the International Association of Chiefs of Police was hired as consultants to assist the City with the search.

Council Member Marraffa

1. Echoed congrats to the 15th Annual Dr. Martin Luther King, Jr. Literary Arts Contest winners.
2. Announced that local artist is being featured at four galleries throughout the City. Works of photography, oil painting, watercolor, textiles and other media are showcased on a rotating basis at City Hall, Activity Center at Bohrer Park, Gaithersburg Arts Barn and the Kentlands Mansion.
3. Encouraged the public to visit the Gaithersburg Arts Barn to see the performances of the award winning magician Bob Sheets and others.

Council Member Sesma

1. Echoed congrats to the Dr. Martin Luther King, Jr. Literary Arts Contest winners and thanked the *Gaithersburg Gazette* for their continued sponsorship of the program.
2. Commended City staff for their involvement with the co-sponsored Dr. Martin Luther King, Jr. celebration held Monday, January 15, 2007 at the Music Center at Strathmore in North Bethesda.
3. Proposed that the City receive a presentation at an upcoming meeting from the Humane Society whose new national headquarters is in the Gaithersburg.
4. Suggested a presentation at an upcoming meeting to assure the public that the City is taking the necessary steps to deal with increased crime in the area and stated that it is important to educate the public on the City's efforts and public safety.
5. Expressed condolences to the family of Maryam Funches, who passed away last week. He mentioned that she was a dedicated public servant in Montgomery County and an active member on the City's Multicultural Affairs Committee and other committees throughout the years.

Mayor Katz

1. Reported that he, City Manager Humpton and other City staff are scheduled to meet with County Executive Ike Leggett and his staff on Friday, January 19, 2007, to discuss the day laborer issue.

2. Made the following statement:

The Mayor and City Council will hold an annual retreat for the purpose of reviewing the City's Strategic Plan and enhancing the working relationship among and between the Mayor, members of the City Council, and management staff. This year's event is scheduled for Friday, January 19 through Saturday, January 20, 2007, at the Loews Annapolis Hotel located at 126 West Street, Annapolis, Maryland. He noted that while the public is invited to attend the retreat and view the proceedings on January 20, there will be no opportunity for public comment. Anyone who would like more information about the retreat may call Assistant City Manager Felton at 301-258-6310. On Friday, January 19, a dinner is scheduled that is not open to the public.

3. Announced the following meeting schedule:

- joint work session scheduled for Monday, January 22, 2007 to discuss Neighborhood 2 and 3 of the Crown Farm Development.
- work session scheduled for Monday, January 29, 2007, to solicit public input for the hiring process for a new chief of police.
- regular meeting of the Mayor and City Council scheduled for Monday, February 5, 2007.

VIII. PUBLIC HEARING**A Consolidated Joint Public Hearing on Z-304 and SDP-06-004**

Z-304, Application to Rezone 14.157 Acres of Land, Currently Known as Part Parcel A Lots N-943; N-994; N-888; & N-939, the Broadstone Apartments, Located at the Intersection of MD 355 and West Deer Park Road in the City Of Gaithersburg, From the Existing R-20 (MEDIUM DENSITY RESIDENTIAL) Zone to the CD (Corridor Development) Zone, in Accordance With §24-196 (Map Amendments) and §24-160G.6 (Procedure for Application and Approval) of the City Code

SDP-06-004, Applicant Requests the Redevelopment of 14.157 Acres of Land, Currently Known as Part Parcel A Lots N-943; N-994; N-888; & N-939, the Broadstone Apartments, Located at the Intersection of MD 355 and West Deer Park Road in the City of Gaithersburg, Proposed Plan Includes 334 Multi-Family Units, 53 Townhomes, and 28 Two-Over-Two Units

Planner Robinson stated that Section 24-160G.6 of the Gaithersburg City Code requires that applications for rezoning to the CD Zone, be accompanied by a schematic development plan application with both hearings being held concurrently. The above consolidated public hearing was advertised in the *Gaithersburg Gazette* on December 27, 2006 and January 3, 2007, and the property posted. He briefly orient the Mayor and City Council and Planning Commission to the site and introduced Jody Kline of Miller, Miller and Canby.

Jody Kline stated that when the City did draft their CD Corridor Plan, there were only some properties that were comprehensively rezoned to the CD Zone. He outlined the anticipated presentation and introduced the speakers to the Mayor and City Council and Planning Commission.

Mark Coletta, regional partner for Fairfield Residential, gave background on Fairfield Residential who is a privately owned real estate development company headquartered in Dallas, Texas, in business since 1989. He stated that they are a fully integrated real estate company meaning that do their own development and have their own construction and general contractors. Fairfield Residential currently

has approximately \$2 billion worth of real estate under construction across the country managed by them. Currently they manage approximately 60,000 units across the country. Locally, the office is open in Bethesda, Maryland with projects in Montgomery County, Germantown, Silver Spring, Fairfax County, downtown Washington, Loudon County, Annapolis and Baltimore County.

Steve Gang, Lessard Group, gave a presentation that oriented the Mayor and City Council and Planning to the site, entrances, roadways, showed elevation views, and mentioned the proposed building height waiver. He stated that the redevelopment has urban ambiances as envisioned in the City's Frederick Corridor Plan. The three basic unit types consist of three to four story buildings, predominately four story multi-family buildings with a parking structure in between the two buildings. The redevelopment also has a combination of townhomes that will feature frontal views and open space along 355, West Deer Park Road and the City park. He stated that there are three site entries off of West Deer Park Drive, with one going right into the garage which is the first entrance a couple of 100 feet due west off of 355, and then two entrances for the two-over-two units and townhomes. He further stated that there is a potential right in, right out at the northeast corner off of 355. He mentioned that the architecture for the redevelopment would have a variety of elevations on all sides, different color brick and window treatment and garages. He mentioned that the plan would benefit the public with the proposed amenities, offer more green space, be in conformance with either the City Master Plan or Frederick Avenue Corridor Plan; compatible with the surrounding communities and that the mixed use development justifies the request height waiver of 48 feet in the CD Zone.

Bill Landfair, Vika, Inc., discussed the requested environmental and road code waivers. He stated that the three roadways (Road Section A, B and C) would be built to modify tertiary residential standards amended through the requested waivers. In the fourth Road Section is D, will be built to an amended alleyway standard. The plan proposed that Road Section A, the main road that leads into the community have 56 feet of right-of-way and 20 feet of pavement to allow a two-way movement and 14 feet of additional pavement to allow parallel parking on both sides of the street. The plan also proposes five foot wide sidewalks along both sides of the street. On Road Section B, the plan proposes 34 feet of right-of-way with 24 feet of pavement for movement and seven feet for parallel parking along one side of the street. Additionally, there will be a five foot wide sidewalk along one side of the street to allow for less encroachment into that environmental area. Road Section C is proposed to have 28 feet of right-of-way with 20 feet of pavement for thru movement, no parallel parking and a five foot wide sidewalk along one side. Mr. Landfair referred to Road Section B, stating that the plan call for a 50 foot radius which is the minimum standard that the City would be allowed to approve. The plan proposes a radius of 100 feet from the center line for Road Section C. He further mentioned the proposed alleyways will be 20 feet to allow for turning movement and better access.

In regards to the environmental waiver, he stated that the environmental sensitive area is along the western side of the property. The developer is requesting the waiver to allow for improvements to be made to the conditions within that area. The waiver would allow an encroachment of about 19,500 square feet and allow the developer to demolish an existing building, sidewalks and pathways as well as a portion of the existing pull back. In closing, he pointed out where the stormwater management facility and storm drain facility would be located in the plan. He stated that power to the area would be within a forest conservation easement and the balance would be forested at a rate of 100 trees per acre.

Jay Johnson, Fairfield development manager, introduced himself to the Mayor and City Council and Planning Commission and stated that Fairfield customizes a development team for each particular site staff, consultants, planners, engineers and attorney.

Speakers from the public:

1. *John Small, 42 West Deer Park Road*, expressed concern with Road Section C running through the back on the Fairfield property and its impact on the existing trees. Asked that leaseholder receive priority for a return to the new rental units. He questioned what precautions have been taken to not repeat what occurred at the Deer Park Apartments.

2. *Louis Cerny, 310 Summit Hall Road*, stated he is looking forward to future improvements to such a prominent street into the City and express support for the redevelopment.
3. *Dolly Kildee, 212 Summit Hall Road*, long time resident of the neighborhood. Stated she has reviewed the plans and I looked at the supporting documents on the website and expressed support for the rezoning and redevelopment. Expressed pedestrian concerns with the proposed sidewalks along 355.
4. *Dolly Swoyer, 223 Summit Hall Road*, resident for over 30 years and expressed support for the rezoning and redevelopment. She stated that the City's aging multi-family housing stock desperately needs upgrading. Agreed that the current residents be given an opportunity to return once redeveloped.
5. *J. Persensky, 116 Summit Hall Road*, lived in the area for 35 years. Stated he is in favor of the rezoning and redevelopment, but expects improvements during the development plan discussion. He expressed concern with the development's impact on the trees, the proposed sidewalks and traffic safety and the entrance to the garage from 355.
6. *Eileen Shea, 209 West Deer Park Road*, lived in the neighborhood for over 30 years. She expressed concern with the existing infrastructure, specifically the schools and the increased density. She asked that the City be mindful and not repeat the displacement of residents that occur at the West Deer Park Apartments.
7. *Thomas Sheridan, 316 Summit Hall Road*, expressed support for the redevelopment, but had concerns with parking and traffic.
8. *Rosa (inaudible), resident of Broadstone*, asked that the current residents have priority in moving back. She also expressed traffic safety concerns with the entrance into the property coming south on 355.

There were no other speakers at the hearing.

The Mayor and City Council and Planning Commission asked that the developer have larger drawings of the whole site that addresses the access on and off the property and the cross circulation for pedestrians, setback information, overlay of the existing buildings and the proposed buildings, specific dimensions and heights of buildings and information on the level of LEED certification of the project for the joint work session. Planner Robinson mentioned that the State Highway Administration is currently doing a full traffic study for the proposed plan that will be reviewed by the City's Public Works staff.

Motion was made by Commissioner Kaufman, seconded by Commissioner Levy, to hold the Planning Commission record on Z-304, open indefinitely.

Vote: 3-0

Motion was made by Council Member Alster, seconded by Council Member Edens, to hold the City Council record on Z-304, open indefinitely.

Vote: 5-0

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, to hold the Planning Commission record on SDP-06-004, open indefinitely.

Vote: 3-0

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, to hold the City Council record on SDP-06-004, open indefinitely.

Vote: 5-0

RECESSED THE MAYOR AND COUNCIL MEETING AT 8:55 P.M.
FOR A HISTORIC DISTRICT COMMISSION MEETING AND RECONVENED AT 9:04 P.M.

IX. ORDINANCES, RESOLUTIONS, AND REGULATIONS

1. Resolution for the Demolition of the Gaithersburg Latitude Observatory Caretaker's House

This resolution authorizes the City Manager to enter into a contract for the above demolition to Barco Enterprises, Inc., 1120 Pulaski Highway, White Marsh, Maryland 21162, in an estimated amount not to exceed Twenty-Six Thousand Seven Hundred Dollars (\$26,700), plus a ten percent construction contingency of Two Thousand Six Hundred Seventy Dollars (\$2,670), for a total amount of Twenty-Nine Thousand Three Hundred Seventy Dollars (\$29,370); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE DEMOLITION OF THE GAITHERSBURG LATITUDE OBSERVATORY CARETAKER'S HOUSE (Resolution No. R-9-07), be approved.

Vote: 5-0

2. Traffic Impact Study Standards Regulation

Planning and Code Administration Director Ossont stated that during policy discussion on January 2, 2007, the Mayor and City Council reviewed and gave staff guidance on the draft regulations. Following discussions, staff was directed to prepare the draft regulations for final action.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that THE MAYOR AND CITY COUNCIL ADOPT THE TRAFFIC IMPACT STUDY STANDARDS REGULATIONS FOR THE CITY OF GAITHERSBURG (Regulation No. 01-07), be approved.

Vote: 5-0

3. Resolution for Commercial Real Estate Consulting Services

This resolution immediately authorizes the City Manager to negotiate and execute a contract for the above services. The consulting services relate to two City-owned properties which are identified in the City's Olde Towne Master Plan as potential redevelopment sites. The sites include the "Y" site and 315 East Diamond Avenue. Staff selected to enter into a contract with The Staubach Company, 575 7th Street, NW, Suite 400, Washington, D.C. 20004, in the amount of One Hundred Forty-Six Thousand Seven Hundred Sixty Dollars (\$146,760); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Schlichting, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR COMMERCIAL REAL ESTATE CONSULTING SERVICES (Resolution No. R-10-07), be approved.

Vote: 5-0

X. POLICY DISCUSSION AND STAFF GUIDANCE**1. Affordable Housing Program Regulations for the City of Gaithersburg (*two alternative versions were ready for final action*)**

Grants Administrator Boyle stated the policy discussion focuses on regulations required to implement the City's affordable housing ordinance that became effective on November 27, 2006. With the exception of Olde Towne, the ordinance does require developers of all new residential projects containing 20 or more units, to set aside 15 percent of those units as affordable. The regulations were previously reviewed by the Mayor and City Council during a work session held on November 13, 2006 and was the subject of a public hearing on January 2, 2007. During the public hearing, the method for calculating alternative payment fees was raised and the use of cost of construction as a basis for calculating the fee was questioned. She noted that the revised regulations does permit the City Manager to retain an independent financial analyst to review construction costs submitted by a developer, thereby allowing for an additional level of scrutiny to the process, if necessary. The record closed on January 11, 2007.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, that THE MAYOR AND CITY COUNCIL ADOPT THE AFFORDABLE HOUSING PROGRAM REGULATIONS FOR THE CITY OF GAITHERSBURG (Regulation No. 02-07), version #1, to include the amendment that displaced tenants in case of redevelopment would receive priority status for units in a new development, be approved.

Vote: 5-0

2. **An Ordinance to Amend Chapter 5 of the City Code Entitled "Buildings," to Create a New Article VI Entitled "Additional Fire Safety Requirements for Certain Multi-Family Residential Structures" to Create a New Section 5-11 Entitled "Automated Sprinkler Systems" to Require the Retrofit of Certain Multi-Family Residential Structures With Automated Sprinkler Systems**

Assistant City Manager Felton stated a public hearing was held on December 18, 2006 and that the suggested recommendations from the Mayor and City Council at that meeting were incorporated into the draft ordinance. The record closed on January 10, 2007.

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the above Ordinance (Ordinance No. O-2-07), be adopted.

Vote: 5-0

XI. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF

- **Guidance on Memorandum dated January 4, 2007 Concerning Possible Restrictions on the Sale of Alcoholic Beverage in Some Locations**

Assistant City Manager Felton referred to the above memorandum and stated that staff raised the possibility of working with Montgomery County during the 2007 Legislative Session on amendments to State liquor laws that would prohibit early morning sales of alcohol and prohibit sales of single beers. He stated that staff recently met with Montgomery County Department of Liquor Control Director George Griffin and Community Outreach Manager Kathie Durbin to discuss the issue. County staff suggested not pursuing the matter through legislation, but to address the issues through the Board of License Commissioners' licensing process. Specifically, they suggested that the City designate a particular geographic area as an "improvement area" and request that the liquor licenses for all establishments within the impact area have restrictions on operating hours and individual sales. He further stated that if the restrictions did not work, legislation can be pursued in the future. The Mayor and City Council concurred that the approach suggested by County staff be considered. Mr. Felton noted that the City would have to document the problems and receive citizen involvement to make it successful.

XII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:16 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant